

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

THE FOLGER COFFEE COMPANY

AI # 1140, 114220, 30118

**PROCEEDINGS UNDER THE LOUISIANA
ENVIRONMENTAL QUALITY ACT**

LA. R.S. 30:2001, ET SEQ.

* **Settlement Tracking No.**

* **SA-AE-05-0005**

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* **Enforcement Tracking No.**

* **AE-CN-04-0009,**

* **AE-CN-04-0009A**

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SETTLEMENT

The following Settlement is hereby agreed to between The Folger Coffee Company ("Respondent") and the Department of Environmental Quality ("DEQ" or "the Department"), under authority granted by the Louisiana Environmental Quality Act, La. R.S. 30:2001, et seq. ("the Act").

I.

The Respondent is a corporation who owns and/or operates a coffee manufacturing plant known as the New Orleans Plant and referred to as the Gentilly Plant, DEQ Agency Interest No. 1140, located at or near 14601 Old Gentilly Road and a coffee roasting and packaging facility known as the Whole Bean Plant and referred to as the Chef Production Plant, DEQ Agency Interest No. 30118, located east of the Navigational Canal on 5500 Chef Menteur Highway. Both plants are located in New Orleans, Orleans Parish, Louisiana. The Respondent also owns and/or operates a finished products (roasted coffee) warehouse known as the LaCombe Distribution Center, DEQ Agency Interest No. 114220, located at or near 64490 Louisiana Highway 434 in LaCombe, St. Tammany Parish, Louisiana ("Facility/ Facilities").

SA-AE-05-0005

II.

On August 25, 2004, the Department issued a Consolidated Compliance Order and Notice of Potential Penalty, Enforcement Number AE-CN-04-0009, to the Respondent based upon the following findings of fact:

The Gentilly Plant operated under Air Permit No. 2140-00005-03 issued on March 11, 1994; Air Permit No. 2140-00005-04 issued on February 24, 1995; Air Permit No. 2140-00005-05 issued on June 7, 1996; Air Permit No. 2140-00005-06 on April 6, 2000; Air Permit No. 2140-00005-V0 issued on December 20, 2000; Air Permit No. 2140-00005-V1 issued on February 22, 2002; and Air Permit No. 2140-00005-V2 issued on April 1, 2003. The facility currently operates under Air Permit No. 2140-00005-V3 issued on May 25, 2005.

The Department received the Respondent's quarterly deviation report for the Gentilly Plant required by Part 70 General Condition R.3 and Louisiana General Condition XI.C dated June 30, 2003, encompassing the period of January 1, 2003, through March 31, 2003.

On or about August 8, 2003, the Respondent met with the Department to discuss the June 30, 2003, deviation report and to discuss the preliminary findings of a third party self-audit performed at the Respondent's facilities.

The Respondent submitted deviation reports for the Gentilly Plant that included the findings of the third party self-audit of the facility. The Department received the Respondent's deviation report as required by 40 CFR Part 70 General Condition R.3 and Louisiana Air Emission Permit General Condition XI.C dated September 29, 2003, for Air Permit No. 2140-00005-V0 for the entire period encompassing December 20, 2000, through February 21, 2002.

The Department received the Respondent's deviation report as required by 40 CFR Part 70 General Condition R.3 and Louisiana Air Emission Permit General Condition XI.C dated September 29, 2003, for Air Permit No. 2140-00005-V1 for the period encompassing February 22, 2002, through March 31, 2003. The Department received the Respondent's semiannual monitoring report dated September 29, 2003, as required by 40 CFR Part 70 General Condition K for the period encompassing January through June 2003. The Department received the Respondent's quarterly deviation report as required by 40 CFR Part 70 General Condition R.3 and Louisiana Air Emission Permit General Condition XI.C dated September 29, 2003, encompassing the period of April 1, 2003, through June 30, 2003.

On or about October 1, 2003, and on or about October 10, 2003, the Respondent met with the Department to discuss the findings revealed during the course of the audit of the facilities. On or about October 29, 2003, the Respondent again met with the Department to discuss in more detail the findings noted during the course of the audit of the Gentilly Plant and to request the incorporation of interim limits into an Order. The Respondent submitted a letter dated December 1, 2003, to the Department which summarized the issues discussed during the October 29, 2003, meeting.

The Respondent submitted a letter dated December 22, 2003, in advance of the meeting scheduled for December 23, 2003, to provide all of the items that the Respondent discovered during the course of the self-audit at the Gentilly Plant.

The Respondent met with the Department on December 23, 2003, to discuss the findings of the audit at the Gentilly Plant provided in the Respondent's December 22, 2003, letter and to

discuss the request for interim limits to be used until the issuance of a modified air permit.

The Respondent submitted a letter dated January 8, 2004, with additional information requested by the Enforcement Division in the December 23, 2003, meeting, in regard to the requested interim limits and missed opacity and maintenance inspections. The Respondent noted in the letter that the total number of missed opacity and maintenance inspections that were listed in the deviation report submitted on June 30, 2003, were revised due to the discovery that some sources had been removed from service or were never constructed and installed.

A meeting was held with the Respondent on or about January 28, 2004, to discuss an additional compliance issue concerning three (3) existing unpermitted cooling towers for which PM₁₀ emissions were discovered during the Respondent's review of the regulatory and permitting status of each emission point and potential emission points at the Gentilly Plant for the air permit modification application that the Respondent was preparing for submittal in February 2004. The Respondent submitted a letter dated February 4, 2004, providing the details in regard to the cooling towers.

The Respondent submitted an air permit modification application under cover letter dated February 19, 2004, for the Gentilly Plant to modify Air Permit No. 2140-00005-V2 issued on April 1, 2003. The Respondent submitted a revision to the air permit modification application by letter dated May 5, 2004, to increase the maximum hourly emissions for some pollutants for the Continuous Roaster Cap (Emission Point CONT RSTR CAP) and the Batch Roaster Cap (Emission Point BATCH RSTR CAP).

Based on reviews on February 6, 2004, and June 25, 2004, of the information provided by

the Respondent, the following violations were noted for the New Orleans Plant (Gentilly Plant):

- A. The Respondent was permitted in Air Permit No. 2140-00005-05 for the Instant Packing Dust Control (Emission Point 5-93) with a PM₁₀ control efficiency of 99.8 percent. According to the Respondent's letter dated December 22, 2003, during an audit the Respondent discovered that the control device installed was actually a cyclone with a control efficiency of approximately 90 percent. The Respondent failed to operate and/or maintain the Instant Packing Dust Control (Emission Point 5-93) with a control efficiency of 99.8 percent. This is a violation of Specific Condition 1 of Air Permit Nos. 2140-00005-03, 2140-00005-04, and 2140-00005-05; State Only Specific Condition 1 of Air Permit Nos. 2140-00005-V1 and 2140-00005-V2; LAC 33:III.501.C.4; and Sections 2057(A)(1) and 2057(A)(2) of the Act.

- B. According to the Respondent's letter dated December 22, 2003, the Respondent constructed in October 2001, the Rework Silo and was permitted to route emissions to either Emission Point 1-91 or 1-98 which were existing baghouses. According to the Respondent, because of the distance from the source to the baghouse, a construction change occurred in which the Rework Silo emissions were vented to a dedicated unpermitted baghouse. The baghouse, known as the Whole Roast Rework Silos was included as Emission Point 1-03 in the air permit modification application which was submitted to the Department under cover letter dated February 19, 2004. The Respondent also constructed in August 2001, four (4) Finished Product Silos (5, 6, 7, and 8). The emissions from the silos were permitted to vent to the Mixer & Finished Product Silo Baghouse (Emission Point 1-98), an existing baghouse. However, each silo was constructed with a dedicated unpermitted filter receiver. The filter receivers, known as the Finished Product Silos 5, 6, 7, and 8, were included as Emission Points 2-03, 3-03, 4-03, and 5-03, respectively, in the air permit modification application submitted to the Department under cover letter dated February 19, 2004. Each failure to install and properly operate the Rework Silo and the four (4) Finished Product Silos (5, 6, 7, and 8) as specified in the application and supplemental information by not having the Rework Silo's emissions vented to either Emission Point 1-91 or 1-98 and the Finished Product Silos' emissions vented to the Mixer & Finished Product Silo Baghouse (Emission Point 1-98) is a violation of the Louisiana Air Emission Permit General Condition I of Air Permit No. 2140-00005-V2, LAC 33:III.501.C.4, and Section 2057(A)(2) of the Act.

- C. The Department issued an Authorization to Construct on November 18, 1998, for the deletion of the Weigh Lorry Cyclone (Emission Point 17) and Instant Granulizer (Emission Point 22) and the rerouting of the emissions from Emission Points 17 and 22 (cyclones with 90 percent control efficiencies) to a higher efficiency cyclone (Emission Point 9-91). However, the Respondent failed to make the change in 1998. The credit for the approximately seven (7) ton per year PM_{10} reduction was included in applications prepared after 1998. The Respondent continued to operate Emission Points 17 and 22 in the same manner until discovery of the issue in September 2003, as noted in a timeline presented to the Department at the time of the October 29, 2003, meeting, and in Attachment II of the letter dated December 1, 2003. On or about September 26, 2003, the emission points were taken out of service until on or about October 3, 2003, when according to the Respondent, the emission points were eliminated. The Respondent failed to install and properly operate proposed control measures and/or equipment by not rerouting the emissions from Emission Points 17 and 22 to the higher efficiency cyclone (Emission Point 9-91) as specified in the applications dated June 21, 2000, June 27, 2001, and October 1, 2002. This is a violation of the Louisiana Air Emission Permit General Condition I of Air Permit Nos. 2140-00005-V0, 2140-00005-V1, and 2140-00005-V2, LAC 33:III.501.C.4, and Sections 2057(A)(1) and 2057(A)(2) of the Act. In addition, each failure to submit an air permit application which contains the identity and location of each point of emissions is a violation of LAC 33:III.517.D.3.a and Section 2057(A)(2) of the Act.
- D. The Department issued an Authorization to Construct on November 18, 1998, for the deletion of the Weigh Lorry Cyclone (Emission Point 17) and Instant Granulizer (Emission Point 22) and the rerouting of the emissions from Emission Points 17 and 22 (cyclones with 90 percent control efficiencies) to a higher efficiency cyclone (Emission Point 9-91). According to the Respondent, this action would result in a reduction of approximately seven (7) tons per year of particulate matter (PM_{10}). However, the Respondent failed to make the change in 1998. The credit for the approximately seven (7) ton per year PM_{10} reduction was included in applications prepared and submitted after 1998. The approximate seven (7) ton per year PM_{10} reduction was included in the Respondent's PM_{10} Prevention of Significant Deterioration (PSD) netting analysis for the Vacuum Sourcing Project submitted to the Department in a letter dated January 10, 2003, to provide more information in support of the Title V Permit application dated October 2002. The Respondent claimed

that net-out was complete and the credit for the reduction was taken on April 1, 2003, when Air Permit No. 2140-00005-V2 was issued. However, the Respondent did not net-out of PM₁₀ PSD for the Vacuum Sourcing Project until on or about October 3, 2003, when according to the Respondent, Emission Points 17 and 22 were eliminated, and the PM₁₀ reduction was actually achieved. The netting-out of the requirements for a PSD permit was delayed until on or about October 3, 2003. Based on the fact that the Respondent initially failed to net-out of the requirements for PSD for the Vacuum Sourcing Project, the Respondent made modifications without prior PSD permitting authorization. This is a violation of LAC 33:III.509.I.1 and Sections 2057(A)(1) and 2057(A)(2) of the Act.

- E. The Respondent reported that there were weeks during the years 2000, 2001, 2002, and 2003, in which weekly visible emissions inspections of the filter vents for the emission points listed in the State Only Specific Conditions 1 and 2 were not conducted and recorded or were conducted but not recorded as required. Each failure to perform and record the visible emissions inspections or record the conducted inspections for each week for each emission point is a violation of State Only Specific Conditions 1 and 2 of Air Permit Nos. 2140-00005-V0, 2140-00005-V1, and 2140-00005-V2; LAC 33:III.501.C.4; and Section 2057(A)(2) of the Act.
- F. The Respondent reported that filter elements (bags) were not inspected every six months or whenever visual checks indicate maintenance may be necessary for Emission Point 18. No six-month inspection for the filter elements (bags) was performed by April 2001 until it was conducted in October 2001, for a total of one missed inspection in 2001, for Emission Point 18. In addition, the Respondent reported that two (2), six-month inspections for the filter elements (bags) were missed in 2001 for each Emission Point, 1-79 and 5-93, for a total of four missed inspections. Also, no six-month inspection for the filter elements (bags) was performed by June 2001 until it was conducted in December 2001, for a total of one missed inspection in 2001, for Emission Point 6-93. Each failure to perform the inspection every six (6) months or whenever visual checks indicate maintenance may be necessary for Emission Points 18, 1-79, 5-93, and 6-93 is a violation of State Only Specific Condition No. 1 of Air Permit No. 2140-00005-V0, LAC 33:III.501.C.4, and Section 2057(A)(2) of the Act.
- G. Filter elements (bags) were not inspected every six (6) months or whenever visual checks indicate maintenance may be necessary for

Emission Points 5-93 and 6-93. The six-month inspection for the filter elements (bags) was not performed by February 2002. The maintenance inspection was performed in December 2002, for a total of two missed inspections for 2002, for Emission Point 5-93. No six-month inspection for the filter elements (bags) was performed by February 2002 for Emission Point 6-93. The next maintenance inspection was conducted in August 2002, for a total of one missed inspection for 2002, for Emission Point 6-93. Each failure to perform the maintenance inspection every six (6) months or whenever visual checks indicate maintenance may be necessary for Emission Points 5-93 and 6-93 is a violation of State Only Specific Condition No. 1 of Air Permit No. 2140-00005-V1, LAC 33:III.501.C.4, and Section 2057(A)(2) of the Act.

- H. Air Permit No. 2140-00005-V0 contained language which required "no visible emissions" for certain emission points. The Respondent later submitted a permit modification application to eliminate the "no visible emissions" requirement due to the Respondent's belief that the requirement was inappropriate for the emission sources. The requirement was removed in Air Permit No. 2140-00005-V1. However, according to the Respondent, during the time period in which the facility operated under Air Permit No. 2140-00005-V0, visible emissions were observed and recorded from the sources at various times. The Respondent noted that the appropriate regulatory standard of twenty (20) percent opacity in LAC 33:III.1311.C was never exceeded. Each time visible emissions were observed for each emission point during the time period that the facility operated under Air Permit No. 2140-00005-V0 (December 20, 2000 through February 21, 2002) is a violation of State Only Specific Condition 1 and/or State Only Specific Condition 2 of Air Permit No. 2140-00005-V0, LAC 33:III.501.C.4, and Sections 2057(A)(1) and 2057(A)(2) of the Act.
- I. The Department received the semiannual construction status report pursuant to Louisiana Air Emission Permit General Condition V of Air Permit No. 2140-00005-V0 dated July 15, 2003. Air Permit No. 2140-00005-V0 was issued on December 20, 2000. The Respondent reported in a deviation report dated June 30, 2003, that though construction of the Vacuum Sourcing Project did not begin until 2001, General Condition V requires that a construction status report should have been submitted for the period of December 20, 2000, through December 31, 2000. A report indicating that construction had not yet commenced should have been submitted. The failure to submit a construction status report is a violation of Louisiana Air Emission

Permit General Condition V of Air Permit No. 2140-00005-V0, LAC 33:III.501.C.4, and Section 2057(A)(2) of the Act.

- J. During meetings on or about October 10, 2003, and January 28, 2004, the Respondent presented information concerning the discovery of unpermitted fugitive carbon monoxide (CO) emissions at the Gentilly Plant and the LaCombe Distribution Center due to coffee bean degassing. In the letter dated June 25, 2004, the Respondent reported that based on air sampling and subsequent testing at the Gentilly Plant associated with a packaging change at the facility, higher than expected CO levels were found, primarily due to previously unrecognized fugitive sources. The Respondent failed to obtain a permit prior to construction, modification, or operation of a facility which ultimately may result in an initiation or increase in emission of air contaminants. This is a violation of LAC 33:III.501.C.2 and Sections 2057(A)(1) and 2057(A)(2) of the Act.
- K. The Respondent has three existing cooling towers (Cooling Towers 1, 2, and 3). Estimated particulate matter (PM₁₀) emissions for all three (3) towers are approximately 0.24 tons per year. In the letter dated February 4, 2004, the Respondent reported that the cooling towers were not permitted. Each failure to permit each of the three (3) cooling towers is a violation of LAC 33:III.501.C.2 and Sections 2057(A)(1) and 2057(A)(2) of the Act.
- L. The Respondent reported in the letter dated April 6, 2004, that results from voluntary emissions testing on two emission points indicate that at some processing conditions, the maximum hourly emissions of NO_x from Batch Roaster 7 (Emission Point 57-00) and PM₁₀ and VOC from Continuous Roaster 1 (Emission Point 7) may be beyond current permitted limits. By letter dated May 6, 2004, the Respondent noted that the February 2004 permit application would be amended to include appropriate higher hourly maximum limitations. In the May 6, 2004 letter, the Respondent requested a variance for the above mentioned emission points and twelve (12) other emission points, which are roasters and chaff arrestors associated with the roasters, to operate with higher than permitted hourly maximum limitations until the air permit modification application is approved. These emission points include the following: Continuous Roaster 2 (Emission Point 8), Continuous Roaster 3 (Emission Point 5-74), Chaff Arrestors 1, 2, and 3 (Emission Points 3, 4, and 4-74, respectively), and Batch Roasters 4 through 6 and 8 through 11 (Emission Points 4-00, 5-00, 56-00, 58-00, 59-00, 60-00, and 61-00, respectively). The Department issued a temporary variance to increase the maximum hourly emission

rates for PM₁₀, CO, NO_x, and VOC for the three (3) continuous roasters (Emission Points 7, 8, and 5-74); eight (8) batch roasters (Emission Points 4-00, 5-00, 56-00, 57-00, 58-00, 59-00, 60-00, and 61-00); and for PM₁₀, CO, and VOC for three (3) chaff arrestors (Emission Points 3, 4, and 4-74) on May 11, 2004. Each exceedance of the permitted maximum hourly emission rates as listed on the Emission Inventory Questionnaire (EIQ) for Air Pollutants for PM₁₀, NO_x, CO, and/or VOC for each emission point is a violation of Louisiana Air Emission Permit General Condition II of Air Permit No. 2140-00005-V2, LAC 33:III.501.C.4, and Sections 2057(A)(1) and 2057(A)(2) of the Act.

(An amended application was submitted under cover letter dated July 15, 2004.)

On November 15, 2004, the Department issued an Amended Consolidated Compliance Order and Notice of Potential Penalty, Enforcement No. AE-CN-04-0009A, to Respondent amending the Consolidated Compliance Order and Notice of Potential Penalty, Enforcement No. AE-CN-04-0009, issued to Respondent on August 25, 2004, adding the following violation to paragraph XI:

- M. On or about September 28, 2004, the Respondent met with the Enforcement Division to discuss an issue that related to the violation noted above in paragraph XI.J of the Findings of Fact. In the meeting, the Respondent stated that subsequent to the discovery of the higher CO levels at the Gentilly Plant, the Department requested that the Respondent perform a retrospective PSD applicability determination for CO for the Vacuum Sourcing Project (VSP) using the newly discovered emissions. The Respondent stated that in discussions with the Department's Permit Division it had been ascertained that CO fugitive emissions must be included in the calculations to determine PSD applicability, and therefore, it was determined that the VSP exceeded the PSD significance level for CO. Based on the fact that the Respondent failed to either net-out of the requirements for PSD or otherwise comply with PSD requirements, the Respondent made modifications without prior PSD permitting authority. This is a violation of LAC 33:III.509.I.1 and Sections 2057(A)(1) and 2057(A)(2) of the Act.

On or about August 8, 2003, the Respondent met with the Department to discuss the preliminary findings of a third party self-audit performed at the Respondent's facilities.

In a meeting with the Department on or about October 10, 2003, the Respondent discussed the findings noted during the course of the audit in regard to the LaCombe Distribution Center. The Respondent noted that this facility did not have a permit, and that more carbon monoxide emissions than expected were discovered at the facility.

The Respondent submitted a permit application dated October 21, 2003, and additional information dated October 23, November 10, and November 24, 2003, to the Department for the LaCombe Distribution Center due to the discovery of the carbon monoxide emissions. The permit application provided further documentation and details of the facts surrounding the higher than expected carbon monoxide emissions discovered at the facility.

On December 30, 2003, Air Permit No. 2680-00052-00 was issued to the Respondent for the operation of the LaCombe Distribution Center.

Based on reviews on February 6, 2004, and June 25, 2004, of the information provided by the Respondent, the following violation was noted for the LaCombe Distribution Center:

During meetings on or about October 10, 2003, and January 28, 2004, the Respondent presented information concerning the discovery of unpermitted fugitive carbon monoxide (CO) emissions at the Gentilly Plant and the LaCombe Distribution Center due to coffee bean degassing. In the letter dated June 25, 2004, the Respondent reported that based on air sampling and subsequent testing at the Gentilly Plant associated with a packaging change at the facility, higher than expected CO levels were found, primarily due to previously unrecognized fugitive sources. The letter noted that the Respondent then recognized that the recent packaging change would allow coffee degassing to persist even after the packages

were moved into the LaCombe Distribution Center, representing a change in operation that required an air permit for the facility. The Respondent failed to obtain a permit prior to construction, modification, or operation of a facility which ultimately may result in an initiation or increase in emission of air contaminants. This is a violation of LAC 33:III.501.C.2 and Sections 2057(A)(1) and 2057(A)(2) of the Act.

The Chef Production Plant was issued Air Permit No. 2140-00056-03 on August 18, 1998; Air Permit No. 2140-00056-04 on October 12, 1999; Air Permit No. 2140-00056-05 on September 25, 2000; Air Permit No. 2140-00056-06 on April 15, 2005; and currently operates under Air Permit No. 2140-00056-07 issued on March 31, 2006.

On or about August 8, 2003, the Respondent met with the Department to discuss the preliminary findings of a third party self-audit performed at the Respondent's facilities.

The Respondent submitted a letter to the Department dated September 29, 2003. The letter was submitted to the Department to report the findings of the review of the Whole Bean Facility and the Respondent discussed the issues with the Department in the October 1, 2003, meeting.

Based on reviews on February 6, 2004, and June 25, 2004, of the information provided by the Respondent, the following violations were noted for the Whole Bean Plant (Chef Production Plant):

- A. The Department received the semiannual construction status report and notification of start-up, dated September 29, 2003, pursuant to Louisiana Air Emission Permit General Conditions V and VI, respectively, of Air Permit No. 2140-00056-03 which was attached to the Respondent's letter dated September 29, 2003. According to the Respondent, the report and notification should have been submitted in November of 1998. The failure to submit semiannually a construction status report and the failure to notify the Department within ten (10) calendar days from the day that construction is certified as complete is

a violation of Louisiana Air Emission Permit General Conditions V and VI, respectively, of Air Permit No. 2140-00056-03, LAC 33:III.501.C.4, and Section 2057(A)(2) of the Act.

- B. The Department received the semiannual construction status report and notification of start-up, dated September 29, 2003, pursuant to Louisiana Air Emission Permit General Conditions V and VI of Air Permit No. 2140-00056-04 which was attached to the Respondent's letter dated September 29, 2003. According to the Respondent, the report and notification should have been submitted in June of 2000. The failure to submit semiannually a construction status report and the failure to notify the Department within ten (10) calendar days from the day that construction is certified as complete is a violation of Louisiana Air Emission Permit General Conditions V and VI, respectively, of Air Permit No. 2140-00056-04, LAC 33:III.501.C.4, and Section 2057(A)(2) of the Act.
- C. The Department received the semiannual construction status report and notification of start-up, dated September 29, 2003, pursuant to Louisiana Air Emission Permit General Conditions V and VI of Air Permit No. 2140-00056-05 which was attached to the Respondent's letter dated September 29, 2003. The report and notification noted that Air Permit No. 2140-00056-05 added two small grinders, a cracker, and a baghouse as Emission Point 1-00. The application to modify Air Permit No. 2140-00056-04 to add this equipment was dated March 20, 2000. According to the Respondent, prior to permitting, in June of 2000, in an effort to determine if the equipment was compatible with the current system, the grinder, cracker, and baghouse were connected (installed) and ran for a three-day period for testing. The equipment was not run again until after issuance of Air Permit No. 2140-00056-05 on September 25, 2000. Emission Point 1-00 began normal operation on November 1, 2001. The Respondent's failure to obtain a permit prior to construction, modification, or operation of a facility which ultimately may result in an initiation of air contaminants is a violation of LAC 33:III.501.C.2 and Section 2057(A)(2) of the Act. In addition, based on the date on the semiannual construction status report and notification of start-up, the Respondent failed to submit semiannually the construction status report and notify the Department within ten (10) calendar days from the day that construction is certified as complete. This is a violation of Louisiana Air Emission Permit General Conditions V and VI, respectively, of Air Permit No. 2140-00056-05, LAC 33:III.501.C.4, and Section 2057(A)(2) of the Act.

D. In accordance with Specific Condition 1 of Air Permit Nos. 2140-00056-05, 2140-00056-04, and 2140-00056-03, the facility is required to visually inspect filter vents for the dust filters on a daily basis. In accordance with Specific Condition 2 of Air Permit Nos. 2140-00056-05, 2140-00056-04, and 2140-00056-03, the facility is required to visually inspect the cyclone vents for the cyclone collectors on a daily basis. In the letter dated September 29, 2003, the Respondent reported that the approximate percentage of visual inspections that were not conducted and recorded was eighteen (18) percent under Air Permit No. 2140-00056-05; eight (8) percent under 2140-00056-04; and nineteen (19) percent under Air Permit No. 2140-00056-03. Each failure to conduct and record the visual inspections for each day for each emission point is a violation of Specific Condition 1 for the dust filters and Specific Condition 2 for the cyclone collectors of either Air Permit No. 2140-00056-05, 2140-00056-04, or 2140-00056-03; LAC 33:III.501.C.4; and Section 2057(A)(2) of the Act.

E. Specific Condition 1 of Air Permit Nos. 2140-00056-05, 2140-00056-04, and 2140-00056-03, requires that the filter elements (bags) shall be inspected every six (6) months and whenever visual checks indicate maintenance may be necessary. Specific Condition 2 of Air Permit Nos. 2140-00056-05, 2140-00056-04, and 2140-00056-03, requires that maintenance inspections of the cyclone collectors shall be performed every six (6) months and whenever visual checks indicate maintenance may be necessary. Maintenance shall be performed as necessary. Both specific conditions require that records of maintenance inspections of the dust filters and cyclone collectors shall be kept on site and available for inspection. The Respondent reported that the inspections required for Specific Conditions 1 and 2 were conducted but that the required inspection records were not always retained. Each failure to record the maintenance inspections for each six months for each emission point is a violation of Specific Condition 1 for the dust filters and Specific Condition 2 for the cyclone collectors of either Air Permit No. 2140-00056-05, 2140-00056-04, or 2140-00056-03; LAC 33:III.501.C.4; and Section 2057(A)(2) of the Act.

F. Specific Conditions 1 and 2 of Air Permit No. 2140-00056-05, for the filter vents and the cyclone vents, respectively, require that Method 22 shall be used for the visual inspection monitoring. The Respondent reported that opacity inspectors at the Whole Bean Plant did not perform strict Method 22 as required by the Air Permit. According to the Respondent, the inspectors performed inspections sufficient to

identify when maintenance was necessary to maintain PM removal efficiencies. Each failure to use Method 22 when conducting the visual inspections for each day is a violation of Specific Condition 1 for the filter vents and Specific Condition 2 for the cyclone vents of either Air Permit No. 2140-00056-05, LAC 33:III.501.C.4, and Section 2057(A)(2) of the Act.

- G. During meetings on or about October 10, 2003, and January 28, 2004, the Respondent presented information concerning the discovery of unpermitted fugitive carbon monoxide (CO) emissions at the Gentilly Plant and the LaCombe Distribution Center due to coffee bean degassing. In the letter dated June 25, 2004, the Respondent reported that based on air sampling and subsequent testing at the Gentilly Plant associated with a packaging change at the facility, higher than expected CO levels were found, primarily due to previously unrecognized fugitive sources. Based on the results of this testing, the Respondent noted that unpermitted fugitive emissions also exist at the Chef Production Plant due to coffee bean degassing. The Respondent failed to obtain a permit prior to construction, modification, or operation of a facility which ultimately may result in an initiation or increase in emission of air contaminants. This is a violation of LAC 33:III.501.C.2 and Sections 2057(A)(1) and 2057(A)(2) of the Act.

The remaining violations noted herein below are not the subject matter of an enforcement action issued by the Department. However, the Department and the Respondent desire to settle and compromise the violations noted as follows:

Based on a letter from the Respondent dated November 1, 2004, the following violation was noted for the Whole Bean Plant (Chef Production Plant, DEQ Agency Interest No. 30118):

In the November 1, 2004 letter, the Respondent reported the discovery of four (4) insignificant activities meeting the criteria listed in LAC 33:III.501.B.5.D that are not permitted. This is a violation of LAC 33:III.501.C.2 and Sections 2057(A)(1) and 2057(A)(2) of the Act.

Based on a letter from the Respondent dated March 10, 2005, the following violation was noted for the New Orleans Plant (Gentilly Plant, DEQ Agency Interest No. 1140):

In the March 10, 2005 letter, the Respondent reported that the PM₁₀ control efficiencies listed as 85 percent for the vacuum chaff arrestor continuous roaster #1, vacuum chaff arrestor continuous roaster #2, continuous roaster #1, continuous roaster #2, vacuum chaff arrestor continuous roaster #3, and continuous roaster #3 (Emission Point Nos. 3, 4, 7, 8, 4-74 and 5-74, respectively) in the permit may be somewhat less than 85 percent because the original efficiency estimates were too high and the over 30 year old devices were not designed to achieve 85 percent efficiency for PM₁₀ reduction. The Respondent noted that the actual PM₁₀ emissions have been, and continue to be, within permitted limits. Each failure to meet the control efficiencies listed on the Emission Inventory Questionnaire (EIQ) for each emission source is a violation of General Condition II of Title V Permit No. 2140-00005-V2, LAC 33:III.501.C.4, and Section 2057(A)(2) of the Act.

On or about April 1, 2005, the Department noted the following violation for the New Orleans Plant (Gentilly Plant, DEQ Agency Interest No. 1140):

The Department received the Respondent's Title V semiannual monitoring report for the period encompassing January through June 2004 and the Title V semiannual monitoring report for the period encompassing July through December 2004 under cover letter dated April 18, 2005. The Respondent failed to submit to the Department the Title V semiannual monitoring report encompassing the period of January through June 2004 by September 30, 2004, and the Title V semiannual monitoring report encompassing the period of July through December 2004 by March 31, 2005. Each failure to submit the Title V semiannual monitoring report by the required date is a violation of 40 CFR Part 70 General Condition K of Title V Permit No. 2140-00005-V2, LAC 33:III.501.C.4, and Section 2057(A)(2) of the Act.

The Respondent noted in the cover letter attached to the Title V semiannual monitoring report form that based on its understanding, the reports were not required if there were no monitoring deviations during the reporting period. According to the Respondent, since being informed by the Department, it was learned that the reports must be submitted even if there are no deviations to report.

III.

Respondent neither admits nor denies it committed any violations or that it is liable for any fines, forfeitures and/or penalties.

IV.

Nonetheless, Respondent, without making any admission of liability under state or federal statute or regulation, agrees to pay, and the Department agrees to accept, a payment in the amount of EIGHTY THOUSAND AND NO/100 DOLLARS (\$80,000.00) of which Two Thousand One Hundred Fifty-Six and 98/100 Dollars (\$2,156.98) represents DEQ's enforcement costs, in settlement of the claims set forth in this agreement. The total amount of money expended by Respondent on cash payments to DEQ as described above, shall be considered a civil penalty for tax purposes, as required by La. R.S. 30:2050.7(E)(1).

V.

Respondent, in addition to the penalty amount specified in Paragraph IV above and as a part of this Settlement, agrees to implement and /or perform the following projects or enhancements in an effort to achieve and maintain compliance with the Gentilly Plant's Title V Permit and the air quality regulations:

- A. Replace three chaff arrestors (EIQ Nos. 3, 4, and 4-74) with Venturi Scrubbers to improve control efficiency rates resulting in lower overall potential to emit from these sources. The Respondent shall obtain all necessary permits prior to commencing construction and shall complete construction and commence operation of the Venturi Scrubbers on or before February 28, 2007.
- B. Replace afterburners on the continuous roasters (EIQ Nos. 7, 8, and 5-74) to improve

control efficiency rates resulting in lower overall potential to emit from these sources.

The Respondent shall obtain all necessary permits prior to commencing construction and shall complete construction and commence operation of the new afterburners on or before January 31, 2008.

The parties recognize that factors both internal and external to the Respondent's business may necessitate an extension of these deadlines. Should the Respondent determine the construction and/or operation deadlines are unattainable, it will submit revised deadlines to the Office of Environmental Compliance and Enforcement Division at least sixty (60) days prior to the deadlines herein. The Office of Environmental Compliance and Enforcement Division reserves the right, under its authority, to accept or reject any and all revised deadlines proposed by the Respondent.

VI.

Respondent further agrees that the Department may consider the inspection report(s), the Amended Consolidated Compliance Order and Notice of Potential Penalty and the Consolidated Compliance Order and Notice of Potential Penalty and this Settlement for the purpose of determining compliance history in connection with any future enforcement or permitting action by the Department against Respondent, and in any such action Respondent shall be estopped from objecting to the above-referenced documents being considered as proving the violations alleged herein for the sole purpose of determining Respondent's compliance history.

VII.

This agreement shall be considered a final order of the secretary for all purposes, including, but not limited to, enforcement under La. R.S. 30:2025(G)(2), and Respondent hereby

waives any right to administrative or judicial review of the terms of this agreement, except such review as may be required for interpretation of this agreement in any action by the Department to enforce this agreement.

VIII.

This settlement is being made in the interest of settling the state's claims and avoiding for both parties the expense and effort involved in litigation or an adjudicatory hearing. In agreeing to the compromise and settlement, the Department considered the factors for issuing civil penalties set forth in LSA- R. S. 30:2025(E) of the Act.

IX.

The Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority in Orleans Parish, Louisiana. The advertisement, in form, wording, and size approved by the Department, announced the availability of this settlement for public view and comment and the opportunity for a public hearing. Respondent has submitted a proof-of-publication affidavit to the Department and, as of the date this Settlement is executed on behalf of the Department, more than forty-five (45) days have elapsed since publication of the notice.

X.

Payment is to be made within thirty (30) days from notice of the Secretary's signature. If payment is not received within that time, this Agreement is voidable at the option of the Department. Payments are to be made by check, payable to the Department of Environmental Quality, and mailed or delivered to the attention of Darryl Serio, Office of Management and Finance, Financial Services Division, Department of Environmental Quality, Post Office Box

4303, Baton Rouge, Louisiana, 70821-4303. Each payment shall be accompanied by a completed Settlement Payment Form (Exhibit A).

XI.

In consideration of the above, any claims for penalties are hereby compromised and settled in accordance with the terms of this Settlement.

XII.

Each undersigned representative of the parties certifies that he or she is fully authorized to execute this Settlement Agreement on behalf of his/her respective party, and to legally bind such party to its terms and conditions.

**NOTICE OF OPPORTUNITY
FOR PUBLIC COMMENT ON PROPOSED
SETTLEMENT AGREEMENT BETWEEN
THE LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY
AND THE FOLGER COFFEE COMPANY**

The Louisiana Department of Environmental Quality and The Folger Coffee Company, Agency Interest Number 1140, 114220, 30118, have entered into a proposed settlement agreement concerning the State's allegations of environmental violations by Respondent at its facility in Orleans Parish, Louisiana, which allegations are set forth in Consolidated Compliance Order and Notice of Potential Penalty, LDEQ Enforcement Number AE-CN-04-0009 and AE-CN-04-0009A.

The Department of Environmental Quality will accept comments on the proposed settlement for the next forty-five (45) days. The public is invited and encouraged to submit written comments to the Louisiana Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, Post Office Box 4302, Baton Rouge LA, 70821-4302, Attention: G. Allen Kirkpatrick, Senior Attorney. All comments will be considered by the Department in reaching a decision on whether to make the settlement final.

Terms and conditions of the proposed settlement may be reviewed at the Louisiana Department of Environmental Quality, Records Management, Room 127, Galvez Building, 602 North Fifth Street, Baton Rouge, Louisiana 70802.

Pursuant to La. R.S. 30:2050.7(D), the Department may hold a public hearing regarding this proposed settlement when either of the following conditions are met: 1) a written request for public hearing has been filed by twenty-five (25) persons, by a governmental subdivision or agency, or by an association having not less than twenty-five (25) members who reside in the parish in which the facility is located; or 2) the secretary finds a significant degree of public interest in this settlement.

For further information, you may call the Legal Affairs Division of the Louisiana Department of Environmental Quality at (225) 219-3985. To request a copy of the proposed settlement, submit a completed Public Record Request Form (DEQ Form FSD-0005-01). The form and instructions for completion may be found on the DEQ Website at the following address: <http://www.deq.state.la.us/pubRecords/default.htm>.

THE FOLGER COFFEE COMPANY

BY: 

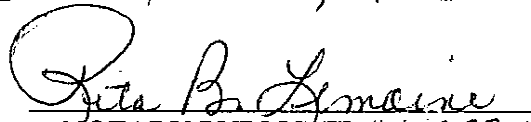
(Signature)

CHRISTOPHER P TODARO

(Print)

TITLE: Plant Manager

THUS DONE AND SIGNED in duplicate original before me this 25th day of August, 20 06, at Alexandria, LA.


NOTARY PUBLIC (ID # 4399)

Rita B. Lemaire
(Print)

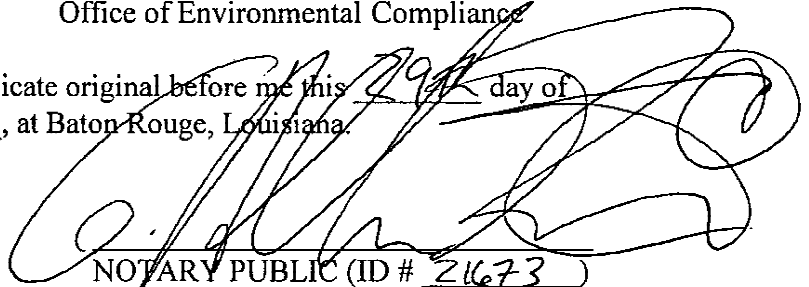
**LOUISIANA DEPARTMENT OF
ENVIRONMENTAL QUALITY**

Mike D. McDaniel, Ph.D., Secretary

BY: 

Harold Leggett, Ph.D., Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 29th day of November, 20 06, at Baton Rouge, Louisiana.


NOTARY PUBLIC (ID # 21673)

G. Allen Kirkpatrick
(Print)

Approved: 

Harold Leggett, Ph.D., Assistant Secretary